

## **REMARKS**

The Final Office Action mailed April 28, 2008 has been received and carefully noted. Claims 1-19 are currently pending in the subject application and are presently under consideration.

Claims 1, 4, 10, and 14 have been amended herein. A listing of claims can be found on pages 2-5 of this Reply.

Favorable reconsideration of the pending claims is respectfully requested in view of the amendments and the following comments.

### **I. Examiner Interview Summary**

The Applicants thank the Examiner and his Supervisor for courtesies extended during the telephonic interview with Thomas M. Coester (Reg. No. 39,637) and Olivia J. Tsai (Reg. No. 58,350) on June 19, 2008. The current amendment regarding the source locations recited in the claims was presented, in which the Examiner stated that further consideration would be required. No specific agreement was reached in the interview.

### **II. Rejection of Claims 1, 2, 4, 5, 7-10, 12-16, 18, and 19 Under 35 U.S.C. § 102(b)**

Claims 1, 2, 4, 5, 7-10, 12-16, 18, and 19 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Arunapuram *et al.* (U.S. 2002/0019759). It is respectfully requested that this rejection be withdrawn for at least the following reason. Arunapuram *et al.* does not describe each and every element of the claims.

For a prior art reference to anticipate, 35 U.S.C. §102 requires that *“each and every element”* as set forth in the claim is

found, either expressly or inherently described, in a single prior art reference.”

*In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950 (Fed. Cir. 1999) (quoting *Verdegaal Bros., Inc. v. Union Oil Co.*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)) (emphasis added). In particular, amended independent claims 1, 4, 10, and 14 recite: “a route determination module to select at least one source location from *the set of source locations having the set of products when the order for the set of products is fulfilled* based on a cost factor and a utilization of a capacity of a set of transports” (emphasis added) or analogous aspects. Arunapuram *et al.* does not describe this amended aspect.

The Examiner contends that Arunapuram *et al.*’s intermediate locations correspond to the source locations of the claims (See Final Office Action mailed April 28, 2008, pg. 16). While the Applicants do not agree with this characterization, these intermediate locations clearly do not disclose the source locations of the claims as amended.

Arunapuram *et al.*’s intermediate locations do not have “the set of products when the order for the set of products is fulfilled” (See independent claims 1, 4, 10, and 14). The cited reference discloses a “problem-solver module” that evaluates the various routing options between an “initial pick-up location and a final drop-off location” (See Arunapuram *et al.*, paragraphs 0017 and 0034). This evaluation may determine, for example, that shipment loads can be combined to reduce shipping costs (See *Id.* at paragraphs 0069-0071). A given route created by the “problem-solver module” may stop at intermediate points (*e.g.*, “crossdock and pool point locations”) between the “initial pick-up location” and the “final drop-off location” (See *Id.* at paragraphs 0010, 0017, and 0034). However, when an order is fulfilled (*i.e.*, when the order is satisfied by shipping the products from the source), none of these intermediate locations have the

products of the order. Rather, the intermediate locations have the products only after the products have left the “initial pick-up location,” which is thus also after the order for these products has been fulfilled. The only location that contains the products for an order when the order is fulfilled is the “initial pick-up location,” but Arunapuram *et al.* does not disclose that the “initial pick-up location” is selected from a set of locations “based on a cost factor and a utilization of a capacity of a set of transports” (See independent claims 1, 4, 10, and 14). Instead, the cited reference is silent with respect to how the “initial pick-up location” is determined and does not disclose any details of the order fulfillment process. Therefore, Arunapuram *et al.* does not describe “a route determination module to select at least one source location from *the set of source locations having the set of products when the order for the set of products is fulfilled* based on a cost factor and a utilization of a capacity of a set of transports” (emphasis added) (See *Id.*).

Each of claims 2, 5, 7-9, 12, 13, 15, 16, 18, and 19 depends from an independent claim, thus incorporating the respective limitations thereof. For at least the aforementioned reasons regarding the independent claims, Arunapuram *et al.* does not describe each and every element of the dependent claims. Accordingly, it is respectfully requested that these rejections be withdrawn.

### **III. Rejection of Claims 3, 6, 11, and 17 Under 35 U.S.C. § 103(a)**

Claims 3, 6, 11, and 17 stand rejected under 35 U.S.C. § 103(a) as being obvious over Arunapuram *et al.*, in view of Cappellini (U.S. 2003/0014286). Claims 3, 6, 11, and 17 depend from independent claims 1, 4, 10, and 14, respectively, and thus incorporate the limitations thereof. The Examiner does not indicate and the Applicants do not discern any part of Cappellini that cures the aforementioned deficiencies of Arunapuram *et al.* regarding the amended independent claims. For at least the above

reasons regarding the amended independent claims, Arunapuram *et al.* and Cappellini, alone or in combination, do not teach or suggest all the limitations of claims 3, 6, 11, and 17. Reconsideration and withdrawal of these rejections are respectfully requested.

### CONCLUSION

In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes a telephone conference would be useful in moving the case forward, he is encouraged to contact the undersigned at (310) 207-3800.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,

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### **CERTIFICATE OF TRANSMISSION**

I hereby certify that this correspondence is being submitted to the United States Patent and Trademark Office electronically via EFS Web on the date shown below.

Christine Flores 6/26/08  
Christine Flores Date